



General Assembly

Distr.
GENERAL

A/CONF.157/PC/84
20 April 1993

Original: ENGLISH

WORLD CONFERENCE ON HUMAN RIGHTS
Preparatory Committee
Fourth session
Geneva, 19-30 April 1993
Agenda item 6

REPORT ON OTHER MEETINGS AND ACTIVITIES

Contribution submitted by the Raoul Wallenberg Institute of
Human Rights and Humanitarian Law

1. The attention of the Preparatory Committee is drawn to the attached report of the eleventh Nordic Refugee Seminar organized by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law from 15 - 17 November 1992. The purpose of the seminar was to seek solutions to the current refugee situation in the Nordic countries.

2. The seminar considered the more than 3 million people who have become displaced persons due to the events in Central and Eastern Europe, and especially in the former Yugoslavia. The laws dealing with aliens in the Nordic countries were not designed for situations of mass influxes of persons. Legal protection for displaced persons was discussed in recognition of the fact that the 1951 Convention on the Status of Refugees does not cover the situation of mass influxes of persons who need temporary asylum. Revision of immigration policies in Europe is under discussion in many countries. One conclusion of the seminar was that the promotion of human rights is essential to avoid the displacement of populations and massive refugee flows.

Report of the Eleventh Nordic Refugee Seminar

arranged by the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, University of Lund, 15 to 17 November 1992.

1. Opening of the Seminar

The chairman of the Raoul Wallenberg Institute, professor Carl-Gustaf Andrén, opened the Seminar.

An inaugural address from the Swedish Minister of Immigration, Ms. Birgit Friggebo, was read by Mr. Erik Lempert. The Minister stressed the enormous political change which has occurred in Eastern and Central Europe, and in particular the tragic events in former Yugoslavia which caused more than three million people to flee from violence and war. This has given rise to displaced persons who do not fall within the scope of the 1951 Refugee Convention. Accordingly, it was necessary to discuss and develop the legal apparatus to meet the present need. She stressed that if on humanitarian grounds a state wanted to give protection to those in need of protection, temporary asylum could be an alternative.

The most important contribution from researchers and politicians was to define the different categories of people that have to be protected so that they can be described in political and legal terms. The questions put to the Seminar should therefore be whether the legal rules or practices of today are sufficient and clear enough compared with the demands, and how far do the obligations go within the 1951 Refugee Convention.

The Minister stressed that the refugee politic was based on national trust and the willingness of the citizens to help people that need assistance and protection. The real challenge was to make the policy clear and understandable.

In the general debate that followed, it was pointed out that presently two proposals for complementary legislation are being prepared in Sweden: one on temporary asylum for persons fleeing from former Yugoslavia; and one on temporary asylum in cases of a large-scale influx of refugees and displaced persons. With respect to international co-operation, a group of European states have been meeting since 1991 to discuss consequences on the migration policy after the breakdown of Soviet Union and the preparation of a European Convention on mass influx situations. Refugees should be entitled to temporary asylum in countries close to the crisis and a mechanism of burden-sharing should

complement the system. The solution to the refugee problem should be through repatriation, but it has to be decided when repatriation should take place. In this context the UNHCR should have a role to play.

The representative of the UNHCR stressed the importance of cooperation for the protection of all refugees. Such cooperation should involve governments, intergovernmental organisations and non-governmental organisations, academic institutions and the media. He stressed that the UNHCR has developed a joint strategy with human rights bodies like the UN Centre for Human Rights and, on a country-to-country basis, human rights missions established by the Secretary-General. Links with academic institutions are important for UNHCR in research terms but also for exchange of ideas and promotion of refugee law training. Accordingly, the Office will encourage greater collaboration and exchange with academic institutions. He also stressed the need for strengthening the capacity of the Office for research, notably on protection.

2. Definition of the Term "Displaced Persons"

Introducing the theme "Definition of the term 'Displaced Persons'" Mr. Per Erik Nilsson stated that the concept may pertain to any person who has left his habitual residence for reasons beyond his control or as a result of events or situations that constitute a danger to him. Semantically, this definition includes virtually all kinds of uprooted people in the widest meaning of the word. The term "refugee" as a legal concept is used in a more narrow sense. The term "displaced persons" may include refugees but also those who are uprooted because of man-made disasters.

The 1951 Refugee Convention/1967 Refugee Protocol only mentions one category of person qualified for refugee status. The Swedish Aliens Act, on the other hand, prescribes for three categories of persons entitled to asylum. These are (1) Convention refugees, i.e. persons who fulfil criteria for Convention refugee status as interpreted in Sweden; (2) de facto refugees, i.e. persons who are not accepted as Convention refugees, but who cannot return to their country of origin due to the political conditions there, and who can invoke significant reasons not to return; and (3) deserters and draft evaders who fear to be sent to a theatre of war. Asylum is always granted on an individual basis.

Another category not entitled to asylum, are those who are granted a residence permit for humanitarian reasons. Within this category, it is possible to find persons who have

escaped from a war or a war-like situation and it is such persons who mostly are referred to as displaced persons. Mr. Nilsson pointed out that the displaced persons in other European countries frequently are referred to as de facto refugees. Accordingly, that term has a different meaning in Sweden vis-à-vis other countries.

With respect to asylum seekers from former Yugoslavia who have recently entered Sweden, no decision on granting refugee status or a residence permit has been taken. They are, however, not returned to their country of origin. It was against this background that the Swedish Ministry had taken the initiative for complementary legislation on temporary asylum for persons fleeing from former Yugoslavia. The draft has been prepared in consultation with the UNHCR.

In the debate that followed, it was stressed that basically close links exist between human rights law, humanitarian law and refugee law. Fear of violations of individual human rights, in particular civil and political rights, may lead to recognition as refugees under the 1951 Refugee Convention. It was stressed that civil and political rights clearly are individual rights and that refugee status under the 1951 Refugee Convention is the corresponding individual right in cases of fear of violation of such rights.

Violations of principles relating to the conduct of hostilities (law of warfare) could lead to such refugee situations as are described in the 1969 OAU Refugee Convention, i.e. refugees or displaced persons because of armed conflicts, internal disorder, etc. What kind of conflict is at stake - an international armed conflict, a non-international armed conflict or internal disorder - is irrelevant in this context. Atrocities against the civilian population as described in Art. 51 of Additional Protocol I to the 1949 Geneva Conventions, may force people to flee. Protection of the civilian population is a collective right and decisions on temporary asylum/status as displaced persons are taken on a collective basis. It is an erroneous presumption that the dividing line between the two categories of refugees relates to numbers. Violations of individual human rights can lead to a mass exodus of refugees, as in the case of Bosnia-Herzegovina. The difference between the two categories relates to the causes for a refugee outflow.

The Swedish immigration procedure is based on individual processing and is not adapted for group determinations and the granting of temporary asylum to persons fleeing from war or warlike situations. The new Swedish draft

legislation relating to temporary asylum is based on a group determination process.

The refugee situation in Norway is similar to that in Sweden. The Aliens Law is not designed for situations of mass influxes. Nevertheless, asylum is granted on humanitarian grounds and the asylum-seekers are being granted residence permits. Within the Ministry of Justice, two committees are preparing legislation on temporary asylum and suggesting what kind of protection such refugees should be entitled to. The work is carried out in cooperation with Norwegian NGOs.

The necessity of additional legislation has also been noted in Denmark, and a proposal for a law on temporary asylum is pending before the Danish Parliament since November 1992. However, the draft law only concerns asylum-seekers from Yugoslavia, but it is worded so that it can be used more generally. It is based on the idea of temporary asylum and not of integration.

The length of the period of temporary asylum was discussed and it was questioned if such a period could be prolonged. In the Swedish draft legislation, such a period is not to exceed nine months, with a possibility for the Swedish Parliament to prolong the temporary stay for periods up to six months. If the period of temporary stay elapses, the foreigner must leave the country. In the Danish draft legislation, the period for protection is six months, with a possibility of prolongation up to a maximum of two years. It was stressed, however, that some conflicts can give rise to temporary asylum for a longer period. The Afghan refugees in Iran and in Pakistan are examples of situations where temporary asylum had to be provided for a considerable period.

It was underscored that occasionally, a person entitled to temporary asylum could simultaneously fulfil criteria for Convention refugee status. Such cases raise the problem of determining at which time an application for asylum/Convention refugee status should be made, immediately upon arrival or when the right to temporary asylum has expired. It was noted that the Swedish draft legislation suggested a solution in line with the latter alternative. The proposal was, however, contested with reference to provisions in the 1951 Refugee Convention and the fact that a solution for Convention refugees is called for as soon as possible. A comparison can be drawn with the refugee legislation in some African countries where the problem has existed for a number of years. Refugees, i.e. those who have been granted temporary asylum, are at any time entitled to apply for Convention refugee status in accordance with established procedures.

3. Legal Protection of Displaced Persons

The theme was introduced by Mr. Erik Lempert who pointed out that one must realise that the 1951 Refugee Convention does not cover all cases where protection is needed, and certainly not in cases of mass influx. When the Convention was written, this was not the intention either. Is the 1951 Convention applicable for individual persons within a situation of mass influx? This is more difficult to determine. In these deliberations, one must not forget that there are exceptions to the principle of non-refoulement if a State faces a situation threatening ordre public or national security. Are there other rules outside the Convention that can govern State behaviour? The International Court of Justice declared in the Corfu Channel Case (page 22) that basic human rights and principles of humanitarian law consist of rules to be followed by States, even if they are not treaty-bound.

In the EXCOM conclusions (No 22), there is a rule which governs appropriate action in cases of mass movements or mass influxes of refugees. Here, the definition is quite close to the one in the OAU Convention. One can also, by analogy, use the 1949 Geneva Convention where there is a rule about neutral asylum in war. In the European Convention for the Protection of Human Rights and the Fundamental Freedoms, article 3 is not to be forgotten. The Cartagena Declaration should also be mentioned here.

A country that is flooded with refugees closes its borders. The UNHCR has pointed out the importance of "access". The system for assisting refugees is today quite rudimentary and it is in need of overhaul. The same goes for the different organisations or systems built to assist refugees.

The problems states are facing today are whether there can be an organisation of some kind that can deal with the problems and solutions in a proper way. Bosnians in Croatia or Bosnians in Serbia should not be seen as asylum-seekers or refugees in a mass influx, but as persons in need of temporary protection.

In the following discussion the view was expressed that the 1951 Refugee Convention could be used also in mass influx situations. Reference was made to the Final Act to the Convention, Chapter IV, Recommendation E, and the fact that the Convention was adopted shortly after World War II in a situation of mass movements of refugees.

Other speakers contested the applications of the 1951 Refugee Convention/1967 Refugee Protocol in all cases of mass influxes, although it was stressed that the ethnic

cleansing in former Yugoslavia meant individual persecution. Accordingly, the great bulk of refugees from that area fulfilled criteria for Convention Refugee status.

It was agreed that should temporary asylum be granted in situations of mass influxes, it was imperative that legal principles be adopted, aiming at clear criteria for such protection as well as an effective mechanism for the procedure to be followed. The existing systems in the Nordic states were too detailed and complicated and could not be used in mass influx situations. The fact that "ordinary" migration was virtually impossible contributed to the problem.

Difficulties could arise if applicants fulfilled the criteria for both Convention Refugee status (human rights refugees) and temporary asylum (humanitarian law refugees). Some speakers stressed that in such a situation the applicant must be free to choose the procedure that is more favourable to him.

It was generally agreed that the principle of non-refoulement was applicable in all situations.

4. Legal Protection and Assistance to Internally Displaced Persons

The theme was introduced by prof. Göran Melander who stressed that the number of internally displaced persons, i.e. uprooted who have not crossed an international border, according to some sources, by far exceeds the number of refugees. With respect to assistance to the internally displaced, treaty law is little developed. Should they be victims of an international armed conflict, the International Committee of the Red Cross and other humanitarian organisations have certain possibilities to assist by virtue of the 1949 Geneva Conventions and the 1977 Additional Protocol I. Most internally displaced persons have, however, escaped in the course of a non-international armed conflict or in a situation of civil strife. Under such circumstances, the international community is not entitled to assist persons in distress without the consent of the state in question.

The basic problem with respect to internally displaced persons is to overcome the objection by the government that measures undertaken constitute an intervention in matters within the domestic jurisdiction of that state. It is true that various UN organs may declare that a particular situation is not essentially within the state's jurisdiction, whereby assistance may be achievable. A better

alternative is, however, that the UN Security Council, acting under Chapter VII of the UN Charter, authorises that humanitarian assistance be provided.

Protection of internally displaced persons lies close to guaranteeing the respect for human rights and the proper application of humanitarian law. As regards human rights law, the "traditional" methods can and are being used, in particular various forms of international condemnation of a state's violation of human rights. Similar methods can be used with respect to humanitarian law. The NGO community has an important role to play and can be strengthened. It is against the rules of the game for the civilian population to be harassed during armed conflicts, and NGOs should give as much publicity as possible, to atrocities undertaken by all parties to a conflict. NGOs have also an important role to play to assist the internally displaced persons. The lack of NGOs for these tasks contributes to the suffering of persons in need.

Assistance to internally displaced persons has to be co-ordinated. The most logical solution would be to establish a new organisation for the coordination of assistance. However, should the competence to assist be dependent upon ad hoc decisions by the Security Council, it may simultaneously authorise an existing organ to coordinate the international assistance. The Security Council may also establish ad hoc organs like UNBRO.

In the debate that followed, the role of the United Nations was discussed. It was stressed that so-called humanitarian intervention was only acceptable in cases authorised by the UN Security Council. Only after a legally binding decision by the Council could it be possible to force a state to accept assistance to people in distress from humanitarian organisations. Accordingly, a more active Security Council was considered necessary.

The representative of the UNHCR reminded participants of the so-called Comprehensive Plan of Action applicable in South-East Asia. According to the CPA, the Office of the UNHCR was authorised to assist asylum seekers whose application for asylum had been rejected and to assist them after their repatriation to the country of origin. He also spoke of the UN peacekeeping operation in Cambodia and former Yugoslavia, two conflicts where the UNHCR has an important role to play. He stressed that the UNHCR could easily expand its activities to assist internally displaced persons and that the UNHCR was prepared to do so.

The proposal was contested by a participant who argued that an involvement by UNHCR to assist internally displaced persons could weaken the possibilities for the

Office to protect refugees who had crossed an international border and who clearly were under the mandate of the UNHCR. There was also a risk that the UNHCR would become another UN development agency.

It was deemed necessary to establish a mechanism to make it possible for humanitarian organisations to assist internally displaced persons. The possibility to make use of the ICRC was underscored, as well as the possibility to establish ad hoc organisations like the UNBRO.

5. Procedures for the Protection of and Assistance to "Displaced Persons"

The theme was introduced by Ms. Berit Fossheim, Ministry of Justice, Norway. She stressed that there are millions of people who are displaced and are in need of protection and assistance. In some cases various NGOs are present, but mostly there are no organisations responsible for the coordination of assistance.

Procedures for the protection and assistance to displaced persons must be elaborated. Strategies for emergency assistance, development assistance and assistance to refugees and immigrants have, however, to be revised in order to achieve a better coordination between international organisations, non-governmental organisations and individual states.

The international organisations must determine the role of different non-governmental organisations. The cooperation between states must lead to a greater acceptance of the principle of burden-sharing. In order to avoid mass influxes of refugees, cooperation is needed for preventing the escalation of a conflict. She stressed that preventive action could only be successful if countries cooperated. The Nordic States have already initiated a number of projects and these activities should be strengthened.

She stressed that the existing apparatus may have to be revised in order to accommodate other priorities. At the national level, the existing machinery was inflexible and short-term. New priorities could lead to another proportion of assistance in the Nordic States or assistance in other countries of asylum.

The discussion took place in Working Groups. Working Group I discussed international cooperation. Exchange of information on various questions relating to mass influx situations was essential. Such an exchange concerned budgetary planning, rules and provisions to be applied and the

operative work, if possible states should draw up plans for mass influxes of refugees.

The cooperation of NGOs should be sought in various phases, depending on their respective mandate. Some NGOs deal with disaster relief, while others are engaged in long-term projects. It was essential to coordinate assistance in accordance with their interests.

Working Group II discussed temporary asylum and temporary protection. The procedure for singling out convention refugees in a mass influx situation was penetrated. However, without finding the ideal solution, it was suggested that refugee legislation in countries which have long experience with mass influx situations would be studied.

A difficult question is when and how temporary protection must change to asylum or permanent residence. In this context burden-sharing was underlined, both economic and as resettlement. UNHCR had a vital role in organizing proper procedures and in distributing economic assistance.

Working Group III discussed repatriation of refugees and persons enjoying temporary asylum. With respect to convention refugees the scrupulous observance of the principle of voluntary repatriation was stressed. The discussion focused, however, on those enjoying temporary protection, where the safe return must be guaranteed.

As long as temporary asylum was granted protection and assistance should be provided aiming at their return. Education could be given in their native language.

In order to guarantee "safe return" an exchange of information was important. Economic assistance to returnees was frequently needed. Such assistance could also be focused at rebuilding the home country.

6. The Relation between the 1951 Refugee Convention and a Treaty Concerning Displaced Persons

In introducing the theme the representative of the Office of the UNHCR, Mr. George Gordon-Lennox pointed to the work of the UNHCR Working Group on International Protection, when examining how best the Office could preserve the principles and values fundamental to international protection while forging new responses which are innovative and practical.

Mr. Gordon-Lennox stressed the Office's support for activities in the fields of preventive diplomacy, ear-

ly-warning, peacemaking and peacekeeping, as well as questions directly related to UNHCR's function in the country of origin, i.e. as regards human rights monitoring and promotion, protection of internally displaced persons, the advisability of safety zones and the effects of all these activities on the need to ensure respect for the institution of asylum. The Office should continue to seek specific endorsement from the Secretary-General or the General Assembly where these activities involve a significant commitment of human, financial and material resources.

Reference was made to Conclusion No 22 of the UNHCR Executive Committee, outlining basic standards of humanitarian treatment in the case of a large-scale influx. The conclusion combined the term refugee, as described both in the 1951 Refugee Convention and the 1969 OAU Refugee Convention, and elaborated the minimum standards in a more condensed form.

In seeking a solution to a refugee problem, Mr. Gordon-Lennox pointed out that local integration in the receiving country no longer seems to be a feasible one in many situations. Accordingly, variable approaches are being pursued with greater frequency, in order to implement a more vigorous promotion of voluntary repatriation and develop such concepts as State responsibility, prevention - - - including in-country protection - - - and temporary protection. Regarding the specific issue of temporary protection for the persons of its concern, the Office must insist on minimum standards of protection against discrimination, refoulement and expulsion, as well as guarantees of basic standards of humane treatment and other fundamental human rights, such as the right of family unity.

It was felt that the time was not yet appropriate for UNHCR to promote new, universal instruments outside the 1951 Refugee Convention/1967 Refugee Protocol for the protection of refugees by States. The Office should nevertheless work actively to develop regional protection possibilities and regional solutions for refugees. Adequate resources, international solidarity and burden-sharing would be necessary for these regional solutions to be implemented.

In his statement Mr. Gordon-Lennox also made reference to a statement made by the High Commissioner who believed that a European strategy should contain the following five elements:

- (1) Although the majority of asylum-seekers in Europe could not prove individual persecution (and not fulfil the requirements prescribed for in article 1 of the 1951 Refugee Convention), in many cases their life and liberty would be in danger if they were forced back to

their own countries. The 1951 Refugee Convention, article 33, prohibits their refoulement for those very reasons!

(2) European countries must examine the possible revision of immigration policies. A significant number of those coming to Europe enter as asylum-seekers, as there is no other possibility to migrate to a European country.

(3) Information, in the largest sense of the word, must be an essential element of any strategy to manage population movements.

(4) The problem of migratory pressure can be solved only when adequate resources are invested in the countries from which many migrants originate.

(5) The concerted and purposeful promotion of human rights is essential to avoid the displacement of populations, refugee movements and the breakdown of stability and peace. Such promotional activities concern human rights in general, the protection of the rights of minorities in particular, and fundamental is the establishment and continued development of democratic states.

In the debate that followed, one participant expressed the opinion that a new refugee convention ought to be elaborated, providing for protection of and assistance to such refugees who are victims of armed conflicts or other acts of internal disorder. Such a convention should in many respects deviate from the 1951 Refugee Convention. It should provide for temporary asylum, preferably in a state neighbouring to the country of origin; it should contain a provision on safe return, a concept which is not exactly the same as voluntary repatriation. The principle of non-refoulement should also be prescribed for, as well as the right to family reunification.

The High Commissioner advocated in favour of a European migration policy. The opinion was stated that such a policy would not solve the present problem in Europe. A more essential solution lies in the adoption by Central European States to take their responsibility with respect to all negative cases, i.e. following the Nordic example, the "deport rejected" cases to the respective country of origin. Unless such a policy is undertaken by all European States, a number of non-refugees will apply for asylum in the region.

The elements of information and promotion of human rights were stressed. The forthcoming UN World Conference on Human Rights could serve the purpose of strengthening universal respect for human rights.

7. Closing of the Seminar.

Mr. Melander, Director of the Raoul Wallenberg Institute, thanked the speakers and the participants of the seminar. He noted that there will be further contacts and follow-up on the subject of de facto refugees both nationally, between the Nordic countries, and internationally. He also hoped that the seminar had served as a sufficient basis in the work of finding solutions for the current refugee situation within the Nordic countries.



General Assembly

Distr.
GENERAL

A/CONF.157/PC/85
20 April 1993

Original: ENGLISH

WORLD CONFERENCE ON HUMAN RIGHTS
Preparatory Committee
Fourth session
Geneva, 19-30 April 1993
Agenda item 5

STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS
FOR THE WORLD CONFERENCE

Note by the Secretariat

Addendum

Contribution by the Coalition against
Trafficking in Women-Asia

1. The attention of the Preparatory Committee is drawn to the attached statement, entitled "Women Empowering Women", presented by the Coalition against Trafficking in Women-Asia, a non-governmental organization in consultative status (category II). It represents a proposal for a new convention on the elimination of all forms of sexual exploitation of women. The statement was adopted by the Human Rights Conference on the trafficking in Asian Women, held in Manila from 1-4 April 1993 to develop strategies to stop the alarming trends in the global trafficking of Asian women for sex, prostitution and bonded labour.

2. The Conference developed an Asian perspective to guide understanding of the problem of sex trafficking in women, while recognizing the particular and local specificities within and among diverse Asian cultures and nations. The Conference participants resolved, inter alia, to declare these violations of women's human rights as human rights violations for which States should be held accountable and to ask the United Nations to take the appropriate measures to respond to this problem by adopting the attached Convention.

A PROPOSAL FOR A NEW CONVENTION
CONVENTION ON THE ELIMINATION
OF ALL FORMS OF SEXUAL EXPLOITATION OF WOMEN

Introduction:

Witnessing the massive proliferation of prostitution globally, especially the dramatic increase in trafficking in women, and recognizing that these abuses are perpetrated by international sex industries that promote the legitimization of prostitution and pornography, UNESCO and the Coalition Against Trafficking in Women (an NGO in Consultative Status with ECOSOC of the U.N.) launched a project in 1991 to examine international human rights instruments in terms of their ability to confront the current crisis in sexual exploitation of women.

Noting the increasing pornographic sexualization of women and the resulting promotion of sexuality based on the dehumanization, objectification, and brutalization of women, a Working Group met at Penn State University in 1991 to analyze the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. It concluded that worldwide sexual exploitation is the foundation of human rights violations of women in prostitution, through pornography and in all forms of sexual abuse and violence. Therefore the Working Group and UNESCO then sponsored a series of meetings of experts to develop a new Convention on the Elimination of All Forms of Sexual Exploitation of Women.

Convention Proposal

Definition of Sexual Exploitation :

Sexual exploitation is a practice by which women are sexually subjugated through the abuse of their sexuality and/or violation of their physical integrity as a means of achieving power and domination including gratification, financial gain and/or advancement whether personal or collective.

Sexual exploitation violates human dignity and equal rights constituting cruel, inhuman and degrading treatment. Sexual exploitation inflicts grave harm on women and aggravates the harm of other existing inequalities often taking the form of sexual slavery, torture, mutilation and death. Prostitution, according to the United Nations is "incompatible with the dignity and worth of the human person," therefore there is no "right to prostitute." Sexual exploitation of any woman is the sexual degradation of all women, depriving women of freedom of movement, and threatening women's safety and security, thus creating the conditions of sexual terrorism. Sexual exploitation is institutionalized in industries and businesses and has increasingly become an instrument of national and international policies and practices which have deprived women of their human rights.

Sexual exploitation takes the form of denial of life through female infanticide, murder of women by reason of their gender, including wife/widow murder, woman battering, pornography, prostitution, genital mutilation, female seclusion, dowry and bride price, sexual harassment, rape, incest and sexual abuse and torture including sadistic and mutilating practices. Therefore State Parties shall punish perpetrators of sexual exploitation and redress the wrongs done to their victims through penal, civil, labor and administrative sanctions. It is an aggravating circumstance and not a defense of sexual exploitation that the perpetrator is the husband, father, other relative or employer of the victim.

Legislation and Sanctions :

Rejecting distinctions between "free" and "forced" prostitution as legitimizing prostitution, the Convention recognizes that the act of prostitution is sexual exploitation. It is the use of a woman's body as a commodity to be bought and sold, exchanged not always for money. It includes casual prostitution, brothels, military prostitution, pornography, sex tourism, and mail-order bride markets.

States Parties agree to punish any person who procures, entices or leads away for the purposes of prostitution, another person, even with the consent of that person; exploits the prostitution of another person, even with the consent of that person; keeps or manages, or knowingly finances or takes part in financing of a brothel; knowingly rents or lets a building or other place thereof for the purposes of prostitution.

Furthermore, States Parties reject any policy or law that legitimizes prostitution of any person, male or female, adult or child, so - called "first or third world;" that distinguishes between free and forced prostitution; or that legalizes or regulates prostitution in any way as a profession or occupation. States Parties will adopt appropriate legislation that recognizes prostitution as an acute form of sexual exploitation and penalizes the customers, recognizing them as perpetrators to be criminalized while rejecting any form of penalization of the prostitute. Recognizing that the pornography industry enlarges the demand for, promotes and is actively engaged in sexual exploitation, States Parties shall enact regulations that hold liable the producers and distributors of pornography.

Recognizing that global industrialization of prostitution, is both a consequence of sex discriminatory economic development policies, and is the basis of unofficial economic development in some regions, States Parties shall reject policies and practices of economic development that channel women into conditions of sexual exploitation, eroding women's traditional economic base where it has existed. They shall insure that economic development policies provide for the full economic development of women through their full integration into dignified paid labor at a decent standard of living from which they have been deprived of through sexual exploitation including especially prostitution. Therefore they shall prohibit sex tourism and penalize those who organize it as procurers and promoters of prostitution (pimping) in both the countries from which customers travel and the countries to which they go for sex tourism.

This convention recognizes that there are certain types of work in the immigration process, such as domestic labor and entertainment, that are conducive to sexual exploitation and may lead to prostitution. State Parties shall take all appropriate measures to provide victims of sexual exploitation including prostitution and traffic in women with refuge and protection and to repatriate those who desire to be repatriated. Refugee status shall be granted to all victims of sexual exploitation, whether entering the country legally or illegally. Employers who sexually exploit women in the migrating process will be held criminally liable. States Parties will insure that valid written contracts of employment are entered into and provide for the monitoring of the provisions of those contracts. States Parties will protect the right of all women to retain their own passports and travel documents to help

prevent any woman from being sold into prostitution or sexually used by another person.

Furthermore, persons or enterprises will be prohibited from promoting, profiting from, or engaging in any business involving the matching of women in marriage to foreign nationals on a mail-order basis (mail-order bride selling.) To prevent sexual exploitation in prostitution on and around military bases, military personnel will be prohibited from engaging in the prostitution of women and children in communities where bases are located. Special observers will be designated to prevent the sexual exploitation of women and children in refugee camps and special provisions will be enacted to protect women from sexual exploitation during wartime including ethnic conflict, civil war, and foreign intervention.

Support Services:

Recognizing that sexual exploitation is injurious to women's physical and mental health and well-being and constitutes a major health problem for women, State Parties will provide specialized health services, fund centers for prostitution alternatives that are voluntary and confidential and provide treatment and testing for STDs and HIV, substance abuse rehabilitation, counseling, day care, housing, income support, preferential access to credit loans to begin small scale business, skills training programs.

Support will be provided to create and establish services for victims of sexual exploitation including prostitution such as shelters in which women primarily work with those women who have been exploited to provide alternatives.

Implementation:

Consistent with the approach taken with respect to implementing human rights conventions, the United Nations will establish a Committee to implement this convention. This Committee on the Elimination of Sexual Exploitation which will be authorized to make confidential inquiries into any reliable accounts of systematic sexual exploitation as defined above and to submit to the State Party concerned its findings with the aim of reaching equitable solution. The Committee on the Elimination of Sexual Exploitation may receive and review individual complaints from victims of sexual exploitation which it will bring to the attention of the concerned State Party. The State Party will be required to respond within six months.

Revision March 1, 1993

Draft

CONVENTION ON THE ELIMINATION OF ALL FORMS OF SEXUAL EXPLOITATION OF WOMEN

Preamble

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and unalienable rights of all members of the human family without distinction as to sex is the foundation of freedom, justice, and peace in the world,

Recognizing that those rights derive from the inherent dignity of the human person,

Considering the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance, of human rights and fundamental freedoms,

Having regard to Article 3 of the Universal declaration of Human Rights and Articles 6 and 9 of the International Covenant on Civil and Political Rights, both of which affirm the right of all persons to life, liberty and the security of persons,

Having regard to Article 4 of the Universal Declaration of Human Rights and Article 8 of the International Covenant on Civil and Political Rights, both of which prohibit slavery and the slave trade in all its forms,

Having regard to Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights both of which recognize the right of all persons to be free from cruel, inhuman or degrading treatment or punishment,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein without discrimination of any kind, including distinction based on sex,

Noting that States Parties to the International Covenant on Civil and Political Rights undertake to secure the equal rights of women and men to enjoy all economic, social, cultural, civil and political rights,

Having regard to the 1949 Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others which states that prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family, and the community,

Recognizing that the Convention Against Torture prohibits cruel, inhuman and degrading treatment or punishment,

Having regard also the Convention on the Elimination of all Forms of Discrimination Against Women which obligates States Parties to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of traffic in women,

Having regard also the Convention on the Rights of the Child which obligates States Parties to protect the child from all forms of sexual exploitation and sexual abuse and obligates the States Parties to take all appropriate national, bilateral and multilateral measures to prevent (a) the inducement or coercion of a child to engage in any unlawful sexual activity, (b) the exploitative use of children in prostitution or other unlawful sexual practices and (c) the exploitative use of children in pornographic performances and materials,

Noting that the General Assembly, in the **International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families**, reaffirmed the principles and standards set forth in the basic instruments regarding the international protection of human rights,

Concerned that women's human rights are seriously threatened by the massive and growing sexual exploitation of women,

Recognizing that sexuality is integral to the human being and that women have the right to sexual integrity and autonomy,

Recognizing further that sexual exploitation, including prostitution, abrogates these rights and subordinates women as a group, and therefore in violating human dignity and the right of equality,

Concerned that sexual exploitation inflicts grave harm and often takes the extreme forms of sexual slavery, torture, mutilation and death,

Concerned that sexual violence and prostitution are not inevitable but are forms of sexual exploitation,

Recognizing that the sexual exploitation of any woman is the sexual degradation of all women, deprives women of freedom of movement, and threatens women's safety and security, thus creating the conditions of sexual terrorism.

Concerned that human sexual exploitation, including prostitution, has increasingly become an integral part of national practices which have deprived women of their human rights,

Recognizing the need for a new convention that will affirm and expand the definitions of sexual exploitation which includes violence against women and prostitution as a violation of women's human rights,

Considering that there is no convention presently in existence which addresses sexual exploitation of adults,

Desiring to make more effective the struggle against sexual exploitation,

Have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

For the purposes of this Convention, sexual exploitation is a practice by which women are sexually subjugated through abuse of women's sexuality and/or violation of physical integrity as a means of achieving power and domination including gratification, financial gain, advancement.

Article 2

Sexual exploitation takes the form of, but is not limited to :

- a) The denial of life through female infanticide, and the murder of women by reasons of their gender, including wife and widow murder.
- b) Subjection to cruel , inhuman and degrading treatment through the following: battering, pornography, prostitution, genital mutilation, female seclusion, dowry and bride price, sexual harassment, rape, incest and sexual abuse.
- c) Subjection to sexual abuse and torture , including sadistic, mutilating practices.

Article 3

The following shall apply throughout this Convention :

- a) Rape is sexual intercourse without the free and full consent of the parties.
- b) Sexual harassment is the imposition of any unwelcome sexual acts, speech or materials.
- c) Prostitution is the use of a woman's body as a commodity to be bought, sold, exchanged not always for money. The exploitation of women in systems of prostitution includes casual prostitution, brothels, military prostitution, pornography, sex tourism, mail-order bride markets. Sexual exploitation is organized within a regional, national and international traffic.
- d) Everything that is herein said about sexual exploitation applies to men and boys because in situations of sexual exploitation, men and boys are treated like women.

PART II SEXUAL EXPLOITATION

Article 4

States Parties condemn sexual exploitation of women and children in all of its forms and agree to formulate policies and practices affecting society to insure freedom from sexual exploitation by protecting control of one's body, sexual integrity, and sexual autonomy.

- a) States Parties recognize that some groups of women are rendered particularly vulnerable to sexual exploitation, such as: minority and indigenous women, rural women and women in the migrating process, elderly women, women with disabilities that are physical, mental (including learning disabilities and mental retardation), and disabilities caused by substance abuse.
- b) States Parties shall recognize that women are rendered particularly vulnerable to sexual exploitation by conditions, such as armed conflict, natural catastrophe, poverty, incarceration (including political prisoners and women in immigration detention centers), family (childhood sexual abuse, forced marriage), homelessness and refugee status.

Article 5

States Parties shall punish perpetrators of sexual exploitation and redress the wrongs done to their victims by developing penal, civil, labor and administrative sanctions. In the formulation and/or application of statutory, common, and customary law:

- a) Women's prior sexual history cannot be used against her in any legal action,
- b) Honor shall not be used to justify or defend against any act of sexual exploitation or violence against women,
- c) It is an aggravating circumstance and not a defense of sexual exploitation that the perpetrator is the husband, father, other relative, or employer of the victim.

Article 6

States Parties reject any policy or law that legitimates prostitution of any person, male or female, adult or child, western or third world; that distinguishes between forced and free prostitution including promotion of the "right prostitute"; or that legalizes or regulates prostitution in any way as a profession or occupation, and agree to adopt appropriate legislation that recognizes prostitution as an acute form of sexual exploitation, including the following,

- a) Punishment of any person who procures, entices, or leads away for the purposes of prostitution, another person, even with the consent of that person; exploits the prostitution of another person, even with the consent of that person; keeps or manages, or knowingly finances or takes part in the financing of a brothel; knowingly rents or lets a building or other place thereof for the purpose of the prostitution of others.
- b) Penalization of the customers, recognizing them as perpetrators to be criminalized while rejecting any form of penalization of the prostitute.
- c) Holding liable the producers and distributors of pornography, recognizing that the pornography industry enlarges the demand for, promotes, and is actively engaged in sexual exploitation.

PART III

GLOBAL SITUATIONS OF SEXUAL EXPLOITATION

Article 7

States Parties agree:

- a) To reject State economic development policies and practices which channel women into conditions of sexual exploitation,
- b) To insure that State policies and practices provide for the full economic development of women through their integration in dignified paid labor at a decent standard of living from which they have been deprived.
- c) Adopt legislative and other measures to prohibit sex tourism and to penalize those who organize tourism for the purpose of sexual exploitation (sex tourism), penalizing the organization of it as a practices of procuring and promoting prostitution. Such measures shall be adopted and implemented in both the countries from which the customers come and the countries to which they go.

Article 8

States Parties shall recognize that there are certain types of work in the immigration process, such as domestic labor and entertainment, that are conducive to sexual exploitation and may lead to prostitution. States Parties shall take all appropriate measures to provide victims of sexual exploitation, prostitution, and the traffic in women with

- a) Refuge, refugee status and protection, and repatriation of those who desire to be repatriated, whether victims of sexual exploitation have entered a country legally or illegally,
- b) Protection to insure that valid written contracts of employment are entered into, provide for the monitoring of the provisions of the contract and protect the migrant worker from sexual exploitation and abuse in the host country,
- c) The right to retain one's own passport and travel documents so that no person can be sold into prostitution or for sexual favours by any other person.

Article 9

States Parties shall insure that:

- a) All employers who sexually exploit or abuse migrant workers are held criminally liable,
- b) Persons or enterprises will be prohibited from promoting, profiting from, or engaging in any business involving the matching of women in marriage to foreign nationals on a mail-order basis, i.e., mail-order bride selling.
- c) Under no circumstances can States construe this article to prevent women from migrating or traveling abroad.
- d) Prohibit their military personnel, whether in foreign territory or in their own countries, from engaging in prostitution of women and children.

Article 10

States Parties shall adopt special provisions to prevent the sexual exploitation of women during all wartime conditions including those of ethnic conflict, civil war, and foreign intervention, and to protect the vulnerability of women and children to sexual exploitation in refugee camps. States Parties recognize the necessity for a special observer to monitor violations of human rights in the area of sexual exploitation and the trafficking of persons.

PART IV SUPPORT SERVICES

Article 11

States Parties agree to take appropriate measures to provide

- a) Restitution to victims of sexual exploitation, and to insure that their report of sexual exploitation receives a fair hearing,
- b) Women with educational programs and work in order to increase women's economic opportunities, and enhance women's worth and status, thereby diminishing the necessity for women to turn to prostitution.

Article 12

States Parties shall create and establish services for victims of sexual exploitation, including prostitution such as shelters and other social service, to provide specialized health services, and to fund centers for prostitution alternatives that are voluntary and confidential that would provide the following :

- 1) Prevention, treatment of any testing for STDs and HIV
- 2) Substance abuse rehabilitation programs
- 3) Training of medical staff to recognize sexual exploitation including rape and prostitution, give appropriate treatment and make referrals to appropriate services as well as to gather medical evidence for prosecution of crimes of sexual exploitation
- 4) Counseling and education services

- 5) Day care and housing assistance
- 6) Income support
- 7) Preferential access to credit and loans to begin small scale business
- 8) Skills training programs

PART III PROCEDURAL MEASURES

Article 13

States Parties undertake to make the principles and provisions of the Convention widely known by appropriate and active means to adults and children alike.

Article 14

- a) For the purpose of examining the progress made by the States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Elimination of Sexual Exploitation which shall carry out the functions herein provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
- b) The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its nationals.
- c) Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two-thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

- d) The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
- e) The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.
- f) If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.
- g) States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 15

- a) The Committee shall elect its officers for a term of two years. They may be re-elected.
- b) The Committee shall establish its own rules of procedure , but these rules shall provide, inter alia, that:
 - 1) Six members shall constitute a quorum;
 - 2) Decisions of the Committee shall be made by a majority vote of the members present.
- c) The Secretary -General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.

- d) The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
- e) The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 16

- a) The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
- b) The Secretary-General of the United Nations shall transmit the reports to all States Parties.
- c) Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
- d) The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article ____ . If so requested by the State Party concerned, the Committee also may include a copy of the report submitted under paragraph 1 of this article.

Article 17

- a) If the Committee receives reliable information which appears to it to contain well-founded indications that sexual exploitation as defined above is being systematically practiced in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
- b) Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
- c) If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
- d) After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Committee shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
- e) All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with Article ____.

Article 18

- a) A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State

Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

- 1) If a State Party considers that another State Party is not giving effect to the provision of this Convention, it may, by written communication, bring the matter to the attention of the State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- 2) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the committee and to the other State;
- 3) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;
- 4) The Committee shall hold closed meetings when examining communications under this article;
- 5) Subject to the provisions of subparagraph (c), the Committees shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;
- 6) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- 7) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

8) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraphs (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

b) The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 19

a) A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

b) The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.

- c) Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
- d) The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
- e) The Committee shall not consider any communications from an individual under this article unless it has ascertained that:
 - 1) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
 - 2) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
- f) The Committee shall hold closed meetings when examining communications under this article.
- g) The Committee shall forward its views to the State Party concerned and to the individual.
- h) The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 20

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article ___, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 21

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

Article 22

- 1) This Convention is open for signature by all States.
- 2) This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary- General of the United Nations.

Article 23

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary- General of the United Nations.

Article 24

- 1) This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary- General of the United Nations of the twentieth instruments of ratification or accession.

- 2) For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 25

- 1) Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for an Article ____.
- 2) Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 26

- 1) Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favor a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one-third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary General to all the States Parties for acceptance.
- 2) An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two-thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
- 3) When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 27

- 1) Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
- 2) Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.
- 3) Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 28

- 1) A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.
- 2) Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.
- 3) Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 29

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following :

- a) Signatures, ratifications and accessions under articles ____ and ____.
- b) The date of entry into force of this Convention under article ____ and the date of the entry into force of any amendments under article ____.
- c) Denunciations under article ____.

Article 30

- 1) This Convention, of which the Arabic, Chinese, English, French, Russian, and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
- 2) The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.



General Assembly

Distr.
GENERAL

A/CONF.157/PC/86
23 April 1993

Original: ENGLISH

WORLD CONFERENCE ON HUMAN RIGHTS
Preparatory Committee
Fourth session
Geneva, 19-30 April 1993
Agenda item 6

REPORT ON OTHER MEETINGS AND ACTIVITIES

Note by the Secretary-General

Contribution from the Canadian Satellite Meeting of the World
Conference on Human Rights

1. The General Assembly, in its resolution 46/116, requested the Secretary-General to report to the Preparatory Committee on progress made on meetings that had been organized under the auspices of the United Nations programme pursuant to General Assembly resolution 45/155.
2. The attention of the Preparatory Committee is drawn to the attached Recommendations for the United Nations and Member States of the Canadian Satellite Meeting of the World Conference on Human Rights, which was held at Ottawa from 21-23 March 1993.
3. The purpose of the meeting was to articulate the position of Canadian non-governmental organizations for the World Conference on Human Rights, in view of the fact that no Regional Meeting was planned for the North American region. The final recommendations focus on the following aspects: democracy, development and human rights; indigenous peoples' rights; international human rights mechanisms; women's rights as human rights and the universality and indivisibility of human rights.

THE CANADIAN NGO SATELLITE MEETING OF THE
WORLD CONFERENCE ON HUMAN RIGHTS

Ottawa, 21-23 March 1993

RECOMMENDATIONS FOR THE
UNITED NATIONS AND MEMBER STATES

**Introductory Statement to Recommendations developed at the
Canadian Satellite Meeting of the World Conference on
Human Rights (Ottawa, 21-23 March 1993)**

The Canadian Satellite Meeting of the World Conference on Human Rights (Ottawa, 21-23 March 1993), convinced that this represents a rare opportunity

to review progress in the international promotion and protection of human rights,

to reaffirm commitment to those standards contained in existing human rights instruments, and

to establish new and effective initiatives to ensure the global observance of universal human rights,

presents the following recommendations to the UN and the member states.

We are acutely aware that, whatever progress has been made, today's world scene is one which demands urgent and immediate attention and indicates a failure of the world community to demonstrate in real terms a serious and genuine commitment to the promotion and protection of human rights. It is with this in mind that the Canadian Satellite Meeting has defined its priority concerns in five key areas:

- * Universality and Indivisibility
- * Development, Democracy and Human Rights
- * Women's Rights
- * International Mechanisms
- * Rights of Indigenous Peoples

We ask that the recommendations contained in this document form the nucleus of discussion at the World Conference. We expect that governments will take the lead in ensuring that the World Conference is a success, both in terms of the conclusions reached and in the provision of mechanisms and resources necessary to allow for full and speedy implementation. Such resources should be found through, for example, reallocation of military expenditures of member states and not through cuts in other reciprocal areas. We further expect governments to demonstrate clearly their own commitment in this regard in a tangible and visible manner.

The Canadian Satellite Meeting makes note of and emphasizes the following:

* that there is an urgent need that a Special Rapporteur, Committee, or other mechanism, be established to determine how best to integrate the right to a healthy and life-supporting environment for current and future generations into all human rights documents;

* that peace and security for all without distinction of race, sex, language, disability or religion are an essential condition for the enjoyment of human rights;

* that the abolition of war through disarmament and demilitarization is a necessary precondition for the peace and security required for the full realization of human rights;

* that the World Conference on Human Rights coincides with the International Year of the World's Indigenous Peoples and that the connection between indigenous rights and human rights should be articulated in the proceedings and the reports of the World Conference on Human Rights;

* that the World Conference needs to acknowledge that patriarchy establishes a hierarchy of rights in direct contradiction to the principle of universality of human rights, and that the Conference needs to direct the UN to study the links between patriarchy, racism, sexism and colonialism;

* that the World Conference on Human Rights has an obligation to acknowledge the priority of integrating women's rights into all components of the UN system, ensuring their full respect and observance;

* that 1992 marked the end of the Decade of Disabled Persons and that, there being few tangible results from this attention, it is necessary to develop and adopt an international convention that will guarantee equality of opportunities and ensure the benefit and fulfilment of fundamental human rights of disabled persons with the goal of their full integration into society.

* that the UN must further address in a consistent and vigorous manner the fundamental rights of all sectors of human society that are particularly vulnerable to abuse, including (but not limited to) children, those belonging to ethnic and linguistic minorities, other visible minority groups, members of the gay/lesbian communities, the economically disadvantaged, etc.;

* that human rights education is fundamental to the respect for human rights and that the World Conference on Human Rights must accord the highest priority to a global program designed to develop and enhance human rights education in all parts of the world; and, further, that education or systems which promote attitudes which are inconsistent with the principles expressed in international human rights instruments must be eradicated;

* that NGOs play a key role in the promotion and protection of human rights through human rights education, through development work, disarmament and support for self-empowerment, and through their role in relation to the UN system as a whole, and that

consequently all necessary provisions and resources must be found to ensure the adequate continuation of these functions within member states.

We wish to record our dissatisfaction at the process by which the World Conference on Human Rights itself has been established and the limitations placed on the involvement and role of NGOs, both in the planning and the conduct of the World Conference itself.

We believe that there needs to be a genuinely consultative relationship between NGOs and member states which incorporates, among other things, a transparency of funding processes and full accountability with respect to human rights policy.

We urge member states to ensure that the World Conference on Human Rights is a means and not an end in itself, that there be no trade-offs or bartering process on these fundamental matters, and that there be full commitment to real accountability under the UN process of all UN member states for any failings to protect and promote the human rights of all peoples.

CANADIAN NGO SATELLITE MEETING OF THE WORLD CONFERENCE ON HUMAN RIGHTS

Recommendations on Democracy, Development and Human Rights 30 March 1993

The participants at this Canadian Satellite Meeting reached the following conclusions with respect to Democracy, Development and Human Rights.

INTRODUCTION

The rights and responsibilities associated with protecting and promoting civil, political, economic, social and cultural rights are profoundly connected with issues of democracy and development.

The role of the United Nations in humanitarian assistance, international intervention and peacekeeping needs to be assessed in light of its positive and negative impacts on promoting democracy and development. In the same way, the role of member states in creating and supporting international policies and conditions which impact on democratic development or on economic, social and cultural development should be addressed in the light of international human rights standards.

We expect member states to maintain consistency between the international standards they supports in United Nations fora and the standards they apply in their domestic affairs. Questions regarding such consistency have been raised with respect to policies and practices on indigenous peoples, women, disabled people, popular participation, refugees, the environment, etc.

1) Democracy and Popular Participation

The notion of "democratic development" should reflect the NGO view that the debate should not focus on models of democracy, but affirm that people's participation and peoples' empowerment -- particularly in the self-determination of their development which is itself a human right -- are the essential ingredients of democracy. Particular attention needs to be paid to the rights of freedom of association and freedom of expression.

2) The Role of International and Multilateral Institutions

International Financial Institutions (IFIs) such as the World Bank, the IMF, regional development banks, and many United Nations organizations, play an increasingly important role in establishing domestic and international conditions which have impact on democratic

development, economic, social and cultural development, and human rights. Concern was expressed that these powerful institutions function outside of international mechanisms which monitor the impact of their policies and programs with respect to promoting or violating fundamental human rights.

We recommend that member states support initiatives, within a program of action, which assure that the mandate of the Working Group on the Right to Development established at the 49th session of the UNCHR include:

- i) the development of mechanisms to ensure that international organizations and IFIs establish and follow procedures which assess the impact of their programs and policies on the capacity of nations to implement the right to development.
- ii) an assessment of support provided by nations to international institutions to determine the degree to which they are consistent with their commitment to promoting civil, political, economic, social and cultural rights.

3) National Agencies and Organizations and the Rights to Development.

Governmental and non-governmental organizations have a significant impact, positively or negatively, on the right to development. It is important that all governmental agencies, government-funded organizations, and non-governmental development and human rights organizations involved in international development rigorously assess the degree to which they promote human rights.

It is important that mechanisms, measures and procedures be established which allow for transparent assessment of the role of national agencies and organizations in promoting human rights.

4) Economic, Social and Cultural Rights

The promotion of economic, social and cultural rights is vital to establishing global conditions which respect fundamental human rights, democratic development and economic, social and cultural development.

While member states have affirmed the indivisibility of all human rights, it is imperative that they take action which underscores their commitment to promoting economic, social and cultural rights.

Specifically, we recommend that member states:

- i) support initiatives to develop an Optional Protocol to the Covenant on Economic, Social and Cultural Rights;
- ii) urge all nations, particularly OECD countries, to ratify and/or remove reservations with respect to the Covenant on Economic, Social and Cultural Rights,
- iii) support an initiative to advance international standards beyond the Declaration on the Right to Development by drafting a Covenant on the Right to Development.

5) Economic, Social and Cultural Rights and the Existence of "Vulnerable Groups"

The failure of states to respect economic, social and cultural rights has a profound impact on certain communities or sectors of society.

This impact is felt severely by children. Human rights violations of children, in particular sexual exploitation, child labour and the neglect or persecution of street children, are unacceptable. The degree to which nations respect economic, social and cultural rights can be measured by examining the human rights situations of indigenous peoples, women, disabled people and migrants.

We recommend that work being undertaken to promote economic, social and cultural rights be conducted with particular reference to those communities identified as most vulnerable.

**CANADIAN NGO SATELLITE MEETING OF THE
WORLD CONFERENCE ON HUMAN RIGHTS**

**Recommendations on Indigenous Peoples' Rights
30 March 1993**

The participants at this Canadian satellite meeting reached the following conclusions with respect to indigenous peoples' rights.

1. That, with respect to the principles of universality and indivisibility of human rights, it is also recognized that indigenous peoples have unique and significant contributions to make to the definition of human rights, the implementation of human rights, and to the development of human rights theory and practice.
2. That, in recognition of the International Year of the World's Indigenous People, the World Conference respect the terminology used by indigenous peoples to identify themselves in the international community: namely the use of the terms "indigenous peoples" rather than indigenous people, or "populations."
3. In recognition of the failure of Western governments to convene a regional meeting for Europe and North America, we recommend that a recommendation at the fourth PrepCom be sponsored supporting the "direct" participation of indigenous peoples regardless of whether or not they have consultative status with ECOSOC. At the regional meeting for Latin America and the Caribbean, time was set aside for indigenous representatives to address the meeting and to meet with the drafting committee of the conference. A similar policy should be adopted for the fourth PrepCom and the World Conference.
4. Action taken by the UN and individual states, and recommendations of the World Conference should be substantive and address the concerns and priorities of indigenous peoples, and the recommendations of the World Conference on Human Rights be specific and be accompanied by plans of action. In particular, the World Conference should advance the human rights concerns of indigenous peoples, including their right to self-determination.
5. The World Conference on Human Rights, the UN and its agencies, and individual states, must demonstrate a genuine commitment to the theme of the International Year of the World's Indigenous Peoples: namely the development of new partnerships with indigenous peoples. Taking into account the priorities expressed by: indigenous peoples at the regional meeting for Latin/America and the Caribbean; the 49th session of the UNCHR; the opening day ceremonies for the international year, and countless other occasions, we support the following previously made recommendations as recommendations that should be adopted by the World Conference:

- i) a permanent UN advisory body on indigenous issues to promote and increase knowledge and awareness of indigenous issues and priorities, and to act as an expert source of information on indigenous peoples.
 - ii) the rules of the ECOSOC be revised to include a new item in chapter 12 between articles 70 and 71, entitled "participation of the representatives of indigenous peoples" that would provide a mechanism for direct and continued access to the UN by indigenous peoples similar to the access (as observers) afforded to other peoples' organizations.
 - iii) The inclusion of a formal permanent item titled "the rights of indigenous peoples" on the agenda of the Commission on Human Rights.
 - iv) That member states support the current draft Declaration on the Rights of Indigenous Peoples and that they will not seek to amend the declaration without the consent of indigenous peoples in their own territories; and that they recognize that indigenous rights are human rights, and that indigenous rights are intimately connected to fundamental issues of identity, human dignity and equality of all peoples.
 - v) That the World Conference recommend that in commemoration of the International Year, the UN General Assembly consider the draft Declaration on Indigenous Rights in it's fall/93 session and ensure its wide dissemination, taking into consideration the further review of the draft Declaration by the Commission Human Rights in its 50th session.
 - vi) That in relation to the development of international standards on indigenous rights, there is an urgent need for standards and mechanisms to address conflict ensuing or that may ensue from human rights violations that can no longer be tolerated.
6. That the World Conference recognize that the military and commercial use of indigenous territories and air space, including the dumping of hazardous and toxic waste, (chemical and radio active), without the free and informed consent of the peoples affected constitutes a violation of the human rights of all peoples.
7. That the 4th PrepCom include an agenda item for the World Conference entitled "Rights of the Child" in recognition of children's rights and consistent with the definition of genocide within Article II of the Convention on the Prevention and Punishment of the Crime of Genocide," which includes "forcibly transferring children of the groups to another group."
8. In reference to Madame Erica Daes' efforts toward the protection of cultural property rights, we emphasize the need for protection against desecration (legal and illegal), as well as restoration, including the repatriation of all these sacred items.

CANADIAN NGO SATELLITE MEETING OF THE WORLD CONFERENCE ON HUMAN RIGHTS

Recommendations on International Human Rights Mechanisms 30 March 1993

The participants at this Canadian Satellite Meeting reached the following conclusions with respect to international human rights mechanisms.

I. UPWARD HARMONIZATION OF MECHANISMS

The effective implementation of international human rights standards requires effective mechanisms. All UN human rights mechanisms -- whether thematic, country, or treaty-based bodies -- should be brought up to the highest level of effectiveness, not reduced to the lowest common denominator. The best working methods and techniques of each should be adopted by all.

In determining the effectiveness of UN human rights mechanisms, the following principles should be applied:

A. Composition:

1. Those responsible for examining, investigating, and reporting on human rights violations should be trained and experienced.
2. The mechanisms must be independent from government.
3. Fact-finding should be totally impartial and objective. Those who staff the mechanisms should base their findings solely on the evidence revealed by their investigations.
4. Membership on these bodies should take adequate account of geographical representation, ethnic balance, and gender balance.

B. Mobilization:

1. Individuals should have the right to petition UN human rights mechanisms. These bodies should not be restricted to cases or issues referred to them by governments or intergovernmental bodies.
2. The mechanisms should be free to initiate investigations, even in individual cases, and even without specific requests or complaints, as long as evidence of violations within its mandate has come to its attention.
3. NGOs should be allowed to initiate complaints, to submit information and recommendations, and to intervene in the determination of individual complaints.

C. Powers:

1. UN human rights bodies should have the power to consider individual cases and not be restricted to dealing with general situations.
2. They should have the power to make general recommendations, including recommendations on country situations, on how violations within their mandate can be avoided in the future, on the need for elaboration of standards, and on their own effectiveness.
3. They should have the power to take the initiative to search out witnesses and documents and to follow the trail of evidence wherever it may lead.
4. They should not be restricted to reporting back to the United Nations, but should have the power to contact governments directly, both for the purpose of collecting information, and for the purpose of remedying violations within their mandates.
5. They should have the power to make on-site visits. Governments should accept in advance the principle that unannounced on-site visits are acceptable for the purpose of investigating allegations of human rights abuses and for making direct contacts with governments. Governments should be prepared to offer open and standing invitations to all mechanisms for these purposes.
6. They should have the power to engage in urgent actions, and not be restricted to reacting only during scheduled sessions.

D. Reporting

1. The mechanisms should not be restricted to making confidential reports. Publicity itself can be a remedy for violations. The decision on publicity should be at the sole discretion of the mechanism. The only criterion that should be used in deciding on publicity, should be its effectiveness in removing or remedying the violation.
2. Reports should be comprehensive and detailed. They should contain statistical and analytical information. They should report on what the mechanism has done, what the responses of government has been, and provide information about individual cases considered.
3. Petitioners -- whether they are victims, family members or non-governmental organizations -- should be informed of the results of the investigation that is undertaken. There should be direct contact with complainants whether the complaint is dealt within a public report or not.
4. The mechanisms should follow-up on their initial reports and contacts about violations. They must not leave any investigation until the violation is remedied or resolved in a manner they deem satisfactory. There must be continuity of coverage on the issues. The mechanisms should follow up undertakings made by governments, in a timely manner.
5. The UN system should produce a consolidated annual human rights report combining the reports of all the mechanisms.

E. Funding

1. All human rights mechanisms should have funding adequate for them to effectively carry out their functions, from the core UN budget.
2. Funding should not depend upon voluntary contributions.
3. For treaty based bodies, funding should not depend upon the signatories to the treaty.
4. The Centre for Human Rights should have adequate funding to service the human rights mechanisms, including funding to computerize the work of the Centre itself, and to computerize the work of the treaty-bodies and other mechanisms.
5. Funds provided from Advisory Services administered by the UN Centre should be available to NGOs as well as governments.

II. EXPANDED COVERAGE

The UN human rights mechanisms should be expanded to be comprehensive. In particular, they should cover effectively rights of women, rights of indigenous people, rights of refugees, rights of disabled persons, rights of human rights activists, and the right to development.

1. All of the mechanisms must be sensitive to the rights of women as they come within the jurisdiction of the mechanisms. They should provide gender disaggregated information and analysis.
2. A permanent advisory body to the UN on rights of Indigenous Peoples should be established, and provision should be made for direct participation of representatives of Indigenous Peoples in the UN system.
3. All mechanisms should be as sensitive to the plight of refugees, the internally displaced, the forcibly expelled, and aliens generally. The mechanisms must recognize the linkages between human rights abuses and mass forced movements of people. They must pay special attention to the plight of persons who flee gender based persecution, whether they fall within the conventional refugee definition or not.
4. There should be an ombudsman for the disabled within the UN system to receive, investigate and act on well-founded complaints. There should be a convention on discrimination against disabled persons.
5. In their reports, UN human rights bodies should provide disaggregated information and analysis on the plight of human rights activists. In their activities, the mechanisms must show particular sensitivity to the plight of human rights activists.
6. As a means of promoting the right to development, in their reports, UN human rights bodies should include recommendations about technical assistance for building the infrastructure necessary to halt future violations of all human rights.

III. SPECIAL COMMISSIONER ON HUMAN RIGHTS

1. A Special Commissioner on Human Rights should be established.

2. Such a Special Commissioner should not do the work of individual mechanisms, but help in the coordination of their work.
3. There is a need for increased coordination between human rights and peacemaking, human rights and development, human rights and humanitarian relief, human rights and early warning, and human rights and the UN refugee system. A Special Commissioner should provide that coordination throughout the UN system.
4. The Special Commissioner would have the power to deal with human rights violations that overlap mechanisms, thus emphasizing and responding to -- rather than downplaying or ignoring -- the cumulative effect of violations.
5. The Special Commissioner should also have the responsibility of ensuring government compliance with mechanism requests. It would not fall to each individual mechanism to ensure that its attempts to contact governments are acknowledged, that its requests for visits are accepted, that its recommendations are implemented. The responsibility would fall on the higher level, higher profile of the Special Commissioner.
6. The human rights mechanisms system is overlapping, fragmented, and lacking universal coverage. A Special Commissioner should be responsible for rationalizing and coordinating the system itself, including consolidating or streamlining the reporting obligations of states.

IV. EDUCATION

1. There needs to be better education about the working of the mechanisms, internationally by the UN, and domestically in each country by the government of that country. Governments should inform NGOs and the public generally about the existence of the mechanisms and the remedies they offer.
2. Government reports to treaty-bodies should be done in as public a way as possible; copies of these reports, of the summary records of the discussion with governments, and of recommendations or comments by the committees should be widely disseminated. Reports should be considered by parliaments after preparation by administrations in order to give them a high profile.
3. There should be public participation in the preparation of government reports to treaty-bodies. NGOs should be invited to make presentations to governments and parliaments before reports are submitted to the UN system. NGOs and individuals should also be invited to contact directly the treaty-bodies that are considering governmental reports, before consideration is given.

V. WORLD CRIMINAL COURT

1. The World Conference should reaffirm the commitment of the UN to the establishment of an international criminal court, and stress the urgency of the need to have such a court established. It should underline the importance both of the ad hoc war

crimes tribunal for crimes committed in the territories of former Yugoslavia and a more general world criminal court.

2. Because the most recent cause for delay in the establishment of a world criminal court has been the difficulty in agreeing upon a code of offenses over which the court would have jurisdiction, the world criminal court should be established in the advance of any agreement on a code of offenses. The court should have jurisdiction over those offenses that are already accepted generally by the community of nations as crimes under international law.

3. The court should have jurisdiction over any person for whom there is probable cause to believe that he or she has committed an international crime. Neither the consent of the state of nationality of the perpetrator, nor the state of nationality of the victim, nor the state that is the locus of the crime should be necessary.

4. The court should have jurisdiction over all international crimes from the time that they became crimes under international law, or were criminal according to the general principles of law recognized by the community of nations. The court should not be restricted to crimes committed after its creation. There should be no statute of limitations for international crimes.

5. The court should have the jurisdiction to award civil remedies as well as to impose criminal sanctions.

6. In the short term, an ad-hoc War Crimes Tribunal should be established to adjudicate atrocities, including rape and forced pregnancy being committed in Yugoslavia and in other parts of the world. Such a tribunal should have jurisdiction over crimes committed by United Nations personnel as well as by State officials and individuals.

**CANADIAN NGO SATELLITE MEETING OF THE
WORLD CONFERENCE ON HUMAN RIGHTS**

**Recommendations on Women's Rights as Human Rights
30 March 1993**

The participants at this Canadian Satellite meeting reached the following conclusions with respect to women's rights as human rights.

We call on the World Conference on Human Rights to acknowledge that patriarchy establishes a hierarchy of rights in direct contradiction to the principle of universality of human rights, and to direct the UN to study the links between patriarchy, racism, sexism and colonialism.

1. Call for the abolition of Patriarchy

We call for the abolition of war through disarmament and demilitarization as preconditions for peace and security necessary for the full realization of human rights.

Demands expressed in the petition -- Women's Rights are Human Rights -- should be reinforced: specifically, the 1993 United Nations World Conference on Human Rights should comprehensively address women's human rights at every level of its proceedings.

2. Gender Based Violence

Considering that gender based violence against women and girl-children is a grave violation of women's human rights, we urge that:

1. The member states present a resolution for the adoption of the draft Declaration on violence against women at the UN Commission on Human Rights Commission (UNCHR).
2. The member states urge UNCHR to appoint a special rapporteur on gender discrimination and violence against women.
3. The member states encourage the UN and its specialized agencies to consult with women's rights organizations and ensure that gender-based violence be addressed in all areas that fall within the broad mandate of the UNCHR.
4. The Rapporteur be authorized to receive and report on information from governments, non-governmental organizations and inter-governmental institutions; to respond

effectively to allegations of violations against women; and to recommend measures to prevent continuing violations. The Rapporteur should also report to the Commission on the Status of Women to assist their policy-making function.

3. Integration of women's rights in all UN structures

A) In preparation for the World Conference, we urge the UN to:

1. Ensure broad, regionally diverse NGO participation in the UN World Conference proceedings. Non-consultative status NGO's whose work is relevant to human rights, should be permitted to attend as observers, make written and oral interventions and receive the documentation provided to the delegations before and during the Conference. [Women's rights NGOs must be fully recognized as human rights NGOs]
2. Encourage fair and effective [equal] participation of women and men in official government delegations and the inclusion in each delegation of persons with an in-depth understanding of a gender-perspective on human rights.
3. Call on all governments to prepare a report on the state of human rights in their country and to include gender-specific information and analysis in background documentation prepared for the 1993 World Conference.
4. Urge the UN Human Rights Centre to incorporate and emphasize gender-specific information and analysis in all the background studies prepared for the World Conference.
5. Create formal procedures for communication between NGO delegation meetings and the official World Conference. Such procedures may include briefings by the Secretariat before and after consideration of major agenda items and the distribution of written statements by governments and by NGOs.

B) In addressing violations of women's human rights, we urge the UN to:

1. Ensure that UN treaty committees, thematic and country rapporteur and working groups, independent experts and all bodies entrusted with protecting human rights address violations of women's human rights, including gender-specific abuses, in the areas that fall within their mandate (through advisory services and training programs, reporting, monitoring and complaints procedures, etc.). Measures necessary to effectively carry out this charge include:

* Support training for all UN personnel and independent experts to ensure that they will address the full range of human rights abuses specific to women and carry out their work without gender-bias.

* Enable the Program on Advisory Services in Human Rights to assist in the integration of a gender-perspective in all this work.

* Ensure periodic evaluations of the effectiveness of the UN monitoring, reporting and complaints procedures, as well as its advisory services and training programs, in addressing and devising more effective responses to violations of women's human rights.

* Call upon each body to prepare a report on the effectiveness of these initiatives for the 1995 World Conference on Women.

2. Strengthen the implementation of human rights and the inter-relationship and indivisibility of economic, social, cultural, civil and political rights by ensuring that gender-specific information and analysis be included in consideration of all human rights, and of the means for advancing the equal realization of economic, social, cultural, civil and political rights.

3. Put forward an inclusive representation of the human rights of all women, particularly of women who have suffered social and historic disadvantage; racial and ethnic minority women; stateless women; indigenous women; women with disabilities; lesbians; refugee women and migrant women; economically disadvantaged women; young and aging women; women living with HIV/Aids, and other disadvantaged women; and that the international position reflect the understanding that human rights violations such as racism, sexism and colonialism do not operate independently of one another, and are not always experienced independently of one another;

4. Ensure the effective contribution to the advancement of human rights of the specialized agencies of the UN (such as UNESCO and WHO), as well as other branches of the UN (such as UNDP), whose work bears upon the implementation of women's human rights:

* Consider measures to integrate gender-specific information and analysis in the work of specialized agencies, including training for relevant personnel.

* Develop effective mechanisms for dialogue and information exchange between the specialized bodies and the international and regional human rights bodies.

* Develop the mechanisms for oversight and periodic evaluation of the effectiveness of these procedures.

* Prepare a report on the effectiveness of these initiatives for the 1995 World Conference on Women.

* Ensure the provision of adequate financial and human resources for these purposes.

C) Effective Implementation. We urge the UN to:

1. Strengthen the implementation procedures under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):

- * Call upon governments who have not yet ratified CEDAW to do so before 1995.

- * Encourage governments to withdraw those reservations to the Convention which are obstacles to its effective implementation.

- * Establish an expeditious process for reviewing the compatibility of reservations with CEDAW and removing those reservations determined to be incompatible with the principles and spirit of the Convention.

- * Establish a working group in the Commission on the Status of Women to outline procedures for drafting an optional protocol, establishing an individual complaints procedure under the Convention, and support the adoption of such an optional protocol.

- * Expand the resources of CEDAW which is charged with overseeing the governmental implementation of the Convention. In order to carry out its mandate effectively CEDAW urgently needs extended meeting sessions, more support staff, and other forms of financial and structural support.

Call upon states to effectively implement CEDAW through the elimination of discriminatory laws, policies, practices and customs and through the implementation of positive measures necessary to advance the equality of women, as called for in the Convention.

2. Consider implementation procedures for socio-economic rights such as an optional protocol allowing for individual complaints to the UN Covenant on Economic, Social and Cultural Rights (ICESCR) and ensuring the accountability of States to undertake affirmative measures to guarantee these rights.

3. Call upon the appropriate UN bodies to simplify the prerequisites for the exhaustion of national remedies so that the time, cost, and inconvenience of pursuing internal remedies no longer presents an obstacle to the effective enforcement of human rights.

D) Equal Representation of Women in the UN Structures. There is a need to:

1. Secure equal representation of women on all UN treaty committees and among the special rapporteur and working groups established by the UN Commission on Human

Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and under the Program on Advisory Services in Human Rights.

2. Develop procedures to expand access of NGO's with expertise in the field of the human rights of women to all UN structures and activities relating to human rights including the work of the specialized agencies and other bodies.

4. Economic, Social and Cultural Rights.

Recognizing the indivisibility of all human rights and the importance of their recognition and implementation in the achievement of women's equality, it is recommended that the government and NGO Human Rights bodies call for reform of the international institutions, regulating trade, finance and aid with a goal of reducing disparities between rich and poor states, along with adequate mechanisms for monitoring, investigation and enforcement. In particular, we **urge that these institutions be accountable to the UN.**

We call on the UN to reiterate that states, groups and individuals adhere to the principle of universality of Human Rights. Culture, religion and other particularities should not be used to deny women the enjoyment of human rights, in particular their reproductive rights, and their right to physical and sexual integrity.

Under the UN's ongoing "Human Rights Scientific and Technological Development," we ask the UN to give particular attention to the growing concerns around genetic engineering and its use in eugenics. Specific attention should be paid to their potential for negative impact on women's reproductive rights, and to their potential for discrimination against other vulnerable groups on the basis of disability, race and gender bias.

5. Women Refugees

The World Conference should recommend that the human rights conventions and the international convention relating to refugees, be amended to include gender persecution as grounds for recognition of refugee status.

6. Lesbian and Gay Rights

Because millions of Lesbians and Gay Men worldwide suffer daily overt and subtle forms of oppression and violence, because this violence, systematic and repetitive, crosses all political, racial, social, religious and economic boundaries, and in light of this highlight of the provisional agenda:

Consideration of contemporary trends in and new challenges to the full realization of women and men, including those of persons belonging to vulnerable groups.

We suggest that the question of Lesbian and Gay rights is consistent with issues that will be raised in Vienna.

We ask the World Conference to take seriously the request that "in light of growing intolerance and persecution of Lesbians and Gay Men, we recommend that the UN Human Rights commission appoint a special rapporteur to investigate the violence and discrimination against persons based on sexual orientation."

CANADIAN NGO SATELLITE MEETING OF THE WORLD CONFERENCE ON HUMAN RIGHTS

Recommendations on the Universality and Indivisibility of Human Rights 30 March 1993

The participants at this Canadian Satellite Meeting reached the following conclusions with respect to the universality and indivisibility of human rights.

- 1.1 We reaffirm the universality of fundamental human rights as adopted in the International Bill of Human Rights.
- 1.2 While we acknowledge the importance of respecting human diversity and recognizing local political considerations, we believe that the protection and promotion of universal human rights is the responsibility of all States, regardless of their political, economic, or cultural systems or circumstances. Universal human rights should not be violated on any ground.
- 1.3 States have a responsibility to harmonize national approaches with universal standards of fundamental human rights.
- 2.1 There is no established hierarchy among universal human rights.
- 2.2 We reaffirm that fundamental civil and political rights and fundamental economic, social and cultural rights are interdependent and indivisible. States cannot and must not ignore any of these rights under the pretext that the full enjoyment of other rights has not been attained.
- 2.3 Cultural differences must not be used to justify violations of human rights. In particular, cultural differences must not be used to justify violations of the rights of women or religious minorities. Human rights values are universal. They are not values that are particular to any one region or culture.
- 2.4 The pursuit of economic, social or cultural rights must not be used to justify violations of civil or political rights. The indivisibility of human rights means that respect for all human rights must be pursued with equal vigour.
- 3.1 Everyone has the right to know about and promote universal human rights.
- 3.2 Everyone has the right to learn about, to share information concerning, and to seek the realization and safeguarding of the fundamental human rights adopted in the International Bill

of Human Rights. In this regard, States should quickly adopt a UN Declaration on the rights of human rights defenders.

3.3 States should begin working on a Convention on the rights of human rights defenders that includes appropriate monitoring mechanisms and does not include inappropriate restrictions on activities of human rights defenders.

3.4 To facilitate the activities of NGOs in the field of international human rights, UN monitoring mechanisms should be made more accessible to NGOs. There should be secure funding and support services to assist NGOs to participate more fully and equitably in the human rights work of the United Nations.

3.5 The United Nations should commit adequate resources to permit UN monitoring bodies to respond adequately to and accommodate enhanced NGO participation.

4.1 Bearing in mind the principles of universality and indivisibility, UN mechanisms for monitoring economic, social and cultural rights should be strengthened through the provision of adequate resources and meeting time for supervisory bodies.

4.2 This should not come at the expense of mechanisms supporting the implementation of civil and political rights, which also need enhancement in terms of resources and procedures.

4.3 Additional mechanisms to ensure a less selective and more inclusive application of universal human rights standards for disadvantaged groups and individuals are also needed. Among these should be instruments -- such as a Convention and an ombuds office -- designed in partnership with disabled people to promote and defend their rights.

4.4 While acknowledging that some grave violations of human rights in countries of the South are not being adequately dealt with by the international community, there should be an effort to ensure that human rights monitoring also focuses on areas in which countries of the North are not living up to their international human rights obligations. These include the rights of racial, ethnocultural, and religious minorities, and the right to freedom of expression.

5.1 Member states should demonstrate more consistency between their verbal commitments to human rights and their actions.

5.2 The fundamental human rights in all articles of the Universal Declaration should be reflected and respected in national constitutions, laws and practices.

5.3 In their efforts to promote human rights internationally, States should attempt to place equal emphasis on economic, social and cultural rights, and civil and political rights.

5.4 Just as universal human rights should be reflected and respected nationally, indivisibility of universal human rights requires that there be consistency among different elements of the foreign policy and practice of States. Policies on trade, the environment and military matters, as well as those dealing with aid and with international financial institutions should be supportive of human rights promotion, rather than being "neutral".



General Assembly

Distr.
GENERAL

A/CONF.157/PC/87
23 April 1993

Original: ENGLISH

WORLD CONFERENCE ON HUMAN RIGHTS
Preparatory Committee
Fourth session
Geneva, 19-30 April 1993
Agenda items 5 and 9

STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS
FOR THE WORLD CONFERENCE

CONSIDERATION OF THE FINAL OUTCOME OF THE WORLD CONFERENCE,
TAKING INTO CONSIDERATION THE PREPARATORY WORK AND THE
CONCLUSIONS OF THE REGIONAL MEETINGS

Note verbale dated 23 April 1993 from the Permanent Mission of
Denmark to the United Nations Office at Geneva

On behalf of the European Community and its Member States
I hereby respectfully request that the enclosed Position Paper
be issued as a document of the fourth session of the Preparatory
Committee of the World Conference on Human Rights.

Position Paper
by
The European Community and its Member States

Table of contents:

Introduction: The Framework (paras 1-4)

Part One: General Approach (paras 5-14)

Part Two: Concrete Measures (paras 15-28)

I N T R O D U C T I O N

(paras 1-4)

(1) In this document, the ECMS would like to share their views on the outcome of the WCHR. This will be done:

- by outlining in this introductory part (paras 1-4) the general framework within which the ECMS believe the World Conference should concentrate its efforts;
- in Part One the ECMS will state their views on the general commitments that should follow from the WCHR, on achievements and on obstacles remaining (paras 5-14);
- in Part Two the ECMS will outline their views on concrete measures that should follow from the WCHR (paras 15-28).

Specifically addressed will be the interrelationship between human rights, democracy and development, the need for continued implementation of human rights norms, and the need for enhancement of the UN's activities in the field of human rights.

(2) In June 1993 the second UN WCHR will be held in Vienna. Twenty-five years after the first conference on the subject (Teheran 1968) and almost forty-five years after the adoption of the Universal Declaration on Human Rights, the time has indeed come to take stock of achievements in the field of human rights and to formulate the task that is still ahead of us. It is the view of the ECMS that considerable achievements have resulted from the efforts of decades past, but it is evident that the world still has a long way to go before universal realisation of human rights is achieved.

(3) The ECMS attach particular importance to the universal concept of Human Rights as first developed in the Universal Declaration on Human Rights and later elaborated in the many UN instruments in this field. Regional human rights instruments should always constitute a forceful supplement to the universal concepts of human rights. As stated for instance in

the Preamble to the European Convention on Human Rights this represented "the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration".

(4) The ECMS also wish to stress that the main thrust of the World Conference should be to strengthen the human rights regime and to reaffirm the need to protect in all circumstances victims of human rights violations.

P a r t O n e
General Approach
(paras 5-14)

(5) In general the ECMS are of the view that the WCHR should reaffirm the commitment of States to the basic principles contained in Articles 55 and 56 of the UN Charter and the International Bill of Rights, and to the universality and indivisibility of human rights.

(6) It should be reaffirmed that violations of human rights are a legitimate concern of the international community, implying as the case may be the accountability of a state both vis-a-vis persons under its jurisdiction and vis-a-vis the other States of the international community. Such concern cannot be considered an interference in internal affairs. In this context the primary responsibility of governments for the implementation of universally recognised human rights should be stressed and a commitment should be made on the part of States to strive towards the universal ratification of UN human rights instruments. As a concrete step toward this end the WCHR should make a strong appeal to States which have not adhered to those instruments to do so.

(7) The WCHR should also underscore the continued need for a system-wide approach to human rights within the UN: In all fields of activities of the UN, including peace and security matters and development issues, human rights concerns should always be taken into consideration. The ECMS also send a strong message of support for the existing supervisory mechanisms in the field of human rights (treaty bodies, working groups, rapporteurs and experts).

(8) The WCHR should address the important interlinked issues of human rights, democracy and development. It should be recognised that the human being - as an individual - should be at the centre of development and that democracy, pluralism and respect for human rights are essential prerequisites for sustained social and economic development. The central role development can play in the realisation of human rights and fundamental freedoms should also be acknowledged.

(9) On several occasions, the ECMS have formulated their views on the interrelationship between human rights, democracy and development. Thus on 28 November 1991, the EC Council of Ministers adopted a resolution on the relationship between these three elements thereby establishing a clear and forward-looking policy, to support actively both the process towards democracy and the promotion of reforms where needed. The ECMS recognise the necessity of a consistent approach towards human rights, democracy and development in their cooperation with third countries. Development cooperation focuses on the central place of the individual and has therefore in essence to be designed with a view to promoting human rights and democracy. Development projects must also aim to promote a suitable and efficient economic environment as well as public and social services which can offer equal opportunities to the whole population. The resolution also emphasises the commitment of the Community and its Member States to back this policy by practical measures in support of

human rights and democracy in areas such as strengthening of the judiciary, electoral assistance, support for a free press, reduction of military expenditure and good governance. The ECMS and their cooperation partners have over the years illustrated their commitments to human rights and democracy by the inclusion of human rights provisions in their association, economic and cooperation agreements.

(10) By promoting human rights and democracy as an integral part of the development process, the ECMS are creating the basis for development which is broad-based and sustainable in the long term. At the same time this development will in itself help to meet the basic social and economic needs of the citizens as well as to strengthen democratic institutions. The Declaration on the right to development brings together individual rights which are recognized in the Covenants and collective aspirations to greater well-being. The single most important message in the Declaration is that of solidarity - solidarity between industrialised countries and their developing partners, solidarity in every country with the most disadvantaged. The fact that three quarters of the planet's population continue to suffer from malnutrition, disease and poverty has to be of concern to every State and every individual.

(11) The leading role of the individual is of crucial importance. The individual is the subject, the agent, but never the passive object of development. Without the active, voluntary participation of the individuals and groups concerned, development policy is doomed to failure. While international development cooperation must of course be strengthened, development and democratisation remain, in the first instance, national responsibilities, as also set out in the Declaration on the right to development. It is for the States concerned to set up structures, in particular structures that promote dialogue, in order to respond to the needs and wishes expressed by the people.

(12) The important role of non-governmental organisations, national institutions for the promotion and protection of human rights and of the media should be stressed. They are important in seizing the general public's attention for human rights and in promoting and retaining human rights awareness. Individuals and non-governmental organisations throughout the world are making valuable and courageous contributions to safeguarding and promoting human rights. Defenders of human rights are still too often the first victims of the arbitrary treatment which they denounce. Specific measures should be envisaged in order to prevent this occurrence. States should enhance awareness of human rights, *inter alia*, through educational programmes, by allowing non-governmental organisations free access to funding and to information and free distribution of information on human rights in conformity with accepted standards of privacy.

(13) The process leading to the WCHR has been given clear guidance by UNGA Resolution 45/155. It formed the basis for the studies which are now being completed and for the provisional agenda agreed upon by the UNGA at its 47th session. As to the main objectives of the WCHR stipulated in that resolution the ECMS are of the view that much has been achieved since the adoption of the Universal Declaration on Human Rights in 1948:

- in the field of standard setting the International Bill of Human Rights and additional, more specific treaties and declarations have shaped a set of norms covering a very broad spectrum of human rights and fundamental freedoms, *i.a.* the Convention on the Elimination of all Forms of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on the Rights of the Child and the Declaration on the Protection of all Persons from Enforced Disappearance. Their importance has been reaffirmed time and again. One could say that general standard setting has been

advanced in a satisfactory way;

- concerning implementation much has still to be done, though respect for human rights and fundamental freedoms worldwide is now more assured than when UN and national efforts in the field started;

- As far as monitoring is concerned a diverse but effective system has been established consisting of bodies monitoring the implementation of treaties, and of rapporteurs and working groups, predominantly of the Commission on Human Rights. This system provides us with a vast amount of information and with a mirror to help us review our achievements. Operational use of emergency sessions of the Commission has provided us with a means to address acute gross violations more rapidly than was possible until recently. The advisory services programme of the Centre for Human Rights can provide, hitherto on a small scale, specific measures to facilitate implementation of human rights. A start has also been made with the inclusion of human rights activities in peace keeping and other UN operational activities.

(14) But while much has been accomplished, many issues and problems remain to be addressed. Resolution 45/155 makes the task of identifying these obstacles and ways in which they could be overcome a major theme for the WCHR. Efforts in the field of human rights have resulted in progress, but have not been free from setbacks:

- First of all, violations continue. Some States have not yet ratified human rights treaties, and even if rights have been acknowledged, their implementation often lags behind. The Conference should call on all States to carry out in full their responsibilities to end appalling human rights violations such as torture, forced disappearances, summary executions, denial of freedom of expression and opinion, and forced displacement. In this respect, impunity is a factor which leads both to injustice in specific cases, and to a general undermining of the rule of law. With regard to implementation, existing procedures for reporting to the

bodies supervising the implementation of the various human rights treaties should be made more efficient;

- There is a need for additional resources for human rights within the UN, in order to give the UN Centre for Human Rights enhanced strength and the ability to execute fully the many tasks entrusted to it. There is also a clear need for improved coordination on human rights issues throughout the UN system. Finally there seems to be a need to give clearer guidance concerning the programme for advisory services in the field of human rights. This programme should focus mainly on assistance for structural change. This assistance is called for if there has been a genuine commitment from the authorities involved to fundamental and irreversible change.

P a r t T w o

Concrete Measures (paras 15-28)

(15) Focusing on the UN's efforts in these fields and taking into account the goals listed in UNGA Resolution 45/155, the ECMS wish to state their views on certain concrete results that should follow from the WCHR:

- concrete measures in support of the interrelated concept of human rights, democracy and development;
- a renewed effort at improving implementation;
- enhancement of the UN's efforts in the field of human rights, including monitoring and advisory services;
- action in some areas of particular concern.

Human Rights, Democracy and Development

(16) From the beginning of the process of the WCHR, the importance of working out the link between human rights, development and democracy has been stressed. While everyone agrees that these themes are interconnected, it has proved difficult to draw conclusions, let alone identify specific measures to enhance the practical meaning of the discussions.

(17) The ECMS are of the view that the WCHR could recommend the use of a broad range of advisory services and technical assistance to aid progress towards democracy including electoral assistance, the promotion of freedom of expression and information and human rights training and education.

(18) The final document of the World Conference should include i.a. the following elements on human rights, democracy and development:

- A general expression of the inter-linkages between human rights, democracy and development stressing that human rights and democracy form part of a larger set of requirements in order to achieve balanced and sustainable development;
- An underlining of the important role of development assistance in promoting - in parallel with economic and social rights - civil and political freedoms by means of representative democratic rule based on respect for human rights;
- Support for the democratization processes now under way in many countries and a pledge by the international community to back the move towards democracy and full enjoyment of human rights, i.a. by providing extended technical assistance in the field of human rights and democracy;
- A reaffirmation of the high priority which, within the framework of development collaboration, should be given to a positive approach that stimulates respect for human rights and encourages democracy;
- An indication that expanded financial and technical resources should be forthcoming to assist institution-building

within the public sector, strengthening of civil society and the protection of vulnerable groups;

- A reference to the crucial role of local and regional NGO's as some of the main advocates and defenders of human rights and democracy;
- Special references to rights of women and the special efforts needed to protect and promote the rights of women;
- Support to and follow-up on action and activities within the objectives of the International Year of the World's Indigenous Peoples with a view to furthering, i.a. the current work on rights of indigenous peoples.
- A pledge to pursue an open and constructive dialogue between countries as a means of promoting human rights, democracy and development in all parts of the world

Implementation

(19) A renewed effort is called for to ensure progress in the field of implementation of international norms on human rights and fundamental freedoms.

(20) Concrete measures to be recommended by the WCHR could include, according to the ECMS:

- a call for universal ratification of human rights instruments, setting in motion a review of all reservations made by States when becoming parties to the various international human rights instruments. States parties should be urged to consider withdrawal of reservations;
- a call for confirmation of succession to such instruments by States successors to States that were parties to them;
- identification of ways to remove remaining obstacles to full adherence to Human Rights instruments;
- regarding impunity, a welcome and stimulus for the work of rapporteurs, experts and working groups. Governments should prosecute those responsible for grave violations of human rights and thus provide a firm basis for the rule of law. The

focus should also be on compensation, on protection of relatives of victims and witnesses of human rights violations as well as on protection of human rights defenders;

- continued reform of treaty supervision and reporting procedures. Relevant organisations - governmental as well as non-governmental - should be encouraged to share their information with the treaty bodies. The recent change in funding of the CERD and CAT treaties has been a step forward. Funding from the regular UN budget instead of by contributions from state parties should provide the bodies established in accordance with these treaties the continuity they need. All treaty bodies should be treated equally in this respect;

- States should live up to their reporting obligations.

Technical assistance to those countries in need of this to fulfil their reporting obligations remains important to the ECMS as well. The procedures for this should be specified, in order to make targeted assistance possible and effective.

Technical assistance should also be provided in order to promote the establishment of national institutions on Human Rights, taking into consideration the important role they play for the promotion of international standards;

- for this and other purposes, regular meetings of chairpersons of treaty bodies are called for.

*Enhanced Role for the UN:
The UN Centre for Human Rights*

(21) As mentioned above, the UN has progressively taken on new, important tasks in the field of human rights. An impressive system has evolved, especially in the field of monitoring human rights. The WCHR should recommend that adequate means be provided to sustain this system. More specifically, the WCHR should recommend that the percentage of the UN's regular budget allocated to human rights should be substantially increased. This follows from the important place respect for human rights has as one of the fundamental aims of the UN.

(22) These funds should be used to allow the UN Centre for Human Rights to address its increasing responsibilities. An increase in funds is also the way to allow the Centre to get more closely involved in UN operations that have a human rights element, including peace keeping operations, monitoring teams and electoral assistance missions. In order to get system-wide attention in a consistent way, it has to be made clear that at all times the Centre for Human Rights is the focal point for human rights in the UN system. The Director of the Centre for Human Rights should be able to perform a stronger coordinating role.

(23) The thoughts outlined above concerning the UN Centre for Human Rights lead the ECMS to propose the following:

- the post of Director of the Centre for Human Rights should be upgraded to that of Undersecretary General for Human Rights/High Commissioner for Human Rights. The Conference should invite the Secretary General and the competent UN bodies to address this question;
- within the overall framework of the UN regular budget, an increased proportion should be put directly at the disposal of the USG/High Commissioner in order to cover the costs of the Centre for Human Rights, the supervisory bodies, monitoring systems, advisory services. This enhanced budget should be used to reinforce the voluntary methods of financing the Centre's technical cooperation activities; the Conference should call for generous contributions to the existing trust funds;
- the USG/High Commissioner for Human Rights should play an important role in coordinating system-wide attention for human rights. The focal role of the Centre can best be realized if it is enabled to cooperate fully with other UN entities. It should be enabled to participate, where appropriate, in peace keeping operations and monitoring missions. It should also be enabled to discharge its functions for electoral assistance. The coordinating role of the USG/High Commissioner for Human Rights also implies that the office of the Centre for Human

Rights in New York be strengthened;

- the USG/HCHR would assure adequate means for the system of thematic and country rapporteurs, experts and working groups. Follow-up on recommendations should become a priority matter for consideration by the CHR;
- while the convening of emergency sessions of the CHR has proved to be a step forward, better ways of responding to acute violations of human rights should be considered. One possibility would be to find ways to bring to the attention of the UN Secretary General massive violations of human rights with a view to submitting concrete cases to the Security Council together with recommendations for action. This action could be taken either at the initiative of the Director of the Centre or following requests from the CHR, special rapporteurs, experts, working groups and human rights treaty bodies. An important element would be to ensure that any UN official with overall responsibility for Human Rights had enhanced status, personal authority and access;
- the Centre for Human Rights should stand ready to assist in establishing and strengthening national human rights institutions and facilitate exchange of experience between such bodies. It could also assume an independent and effective role in the field of education and public information on human rights;
- the Centre for Human Rights should in the view of the ECMS also assume a larger role in the promotion of human rights through positive measures. This role could be given shape by an enhanced programme of advisory services, focusing solely on measures that could instigate real change in the state of human rights in specific countries. The existing voluntary funds will have to be expanded substantially for these purposes and should be managed in a more coordinated way. All contributions to the voluntary funds should be considered as official development assistance. We welcome the establishment of boards of trustees to supervise activities financed out of the voluntary funds. All activities should follow strict and transparent project management rules and regular programme and

project evaluations would have to be held.

Action in some areas of particular concern

(24) The points mentioned below are by no means the only ones on which the ECMS consider the World Conference on Human Rights should take action. Other specific areas on which the Conference should focus include:

- the rights of the Disabled
- the rights of Children
- the rights of Indigenous Peoples.

The recommendations made by UN bodies and NGO's in this regard should be taken into account in formulating specific proposals.

Torture

(25) Torture is one of the most pervasive issues for the international community. Representatives of many and varied cultures have always agreed that torture is a human rights violation which can never be accepted or excused. Under human rights law and humanitarian law, freedom from torture is a right which must be protected under all circumstances, including in times of internal or international disturbance or armed conflicts. Over the years, many conventions have been drafted with the aim of eliminating torture. But torture still occurs in many countries. The Conference should therefore call on all States for an immediate end to this scourge through full implementation of the relevant Conventions and, where necessary, strengthening of existing mechanisms.

Racism

(26) The ECMS have always been and continue to be vehemently opposed to all forms of racism and racial discrimination. This was stated in very clear terms by the European Council in the Declaration on Racism and Xenophobia adopted at Maastricht in December 1991. We lose no opportunity to condemn these odious practices, and we are appalled by the crimes now being committed in the name of so-called racial or ethnic purity. The Conference should therefore in its final document include a strong condemnation of all forms of racism; it should reaffirm the commitment of all States to do their utmost to prevent and suppress all manifestations of racism and xenophobia.

Women's Rights

(27) The WCHR should address the issue of the human rights of women, and in particular the issue of violence against women. Consistent and system-wide action is called for. The WCHR should therefore strive for improved coordination between the appropriate UN bodies in this regard.

(28) In the view of the ECMS the World Conference could contemplate action along the following lines:

- the ECMS welcome the resolution adopted by the Commission on the Status of Women (CSW) at its 37th session entitled "World Conference on Human Rights" (E/CN.6/1993/L.5);
- the Conference should recommend that the 48th UNGA adopt the draft Declaration on Violence against Women (E/CN.6/1993/L.9) and that States implement its suggestions with a view to combating and eradicating violence against women as defined in Art. 2 of the draft Declaration;
- States should be encouraged to supply information on the situation of women de jure and de facto in their reports to treaty monitoring bodies;

- the ECMS note with satisfaction that the Commission on Human Rights adopted at its 49th session a resolution stating that rapporteurs and working groups in the field of human rights should also be encouraged to do so (Resolution 1993/46). From past experience, we know of violence against women in detention, of travel restrictions, of various other forms of discrimination, but the efforts need to become more systematic and need to be evaluated regularly. All relevant information in the reports should be made available on a regular basis and in an accessible format to the Commission on Human Rights and to the Commission on the Status of Women. In this context further cooperation needs to be established between the Centre for Human Rights and the Division for the Advancement of Women. Finally States should also be encouraged to withdraw reservations made when becoming party to the Convention on the Elimination of All Forms of Discrimination against Women.
 - The ECMS welcome the decision of the CHR to "consider the appointment of a special rapporteur on violence against women at its fiftieth session".
-